IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 891 of 2006

IN

NOTICE OF MOTION NO. 3789 OF 2006

IN

SUIT NO. 3113 OF 2006

Housing Development and
Improvement India Ltd. ..... Appellant.

Versus

E-City Entertainment (India)
Private Limited and others..... Respondents.

Mr. Rohit A. Kapadia, Senior Counsel with Mr. T.N. Subramaniam and Mr. Rajesh Shah i/by M/s.Markand Gandhi & Co., for the Appellant.

Mr. A.Y.Bookwala, Senior Counsel with Ms. S. Joshi & Ms. Radha Kalpatrai i/by M/s. P. K. Shroff & Co., for the Respondents.

CORAM : R. M. LODHA, and
S. A. BOBDE, JJ.

DATED : 11TH DECEMBER, 2006.

P.C.:

We heard the Senior Counsel for the parties.

2. Mr. Rohit A. Kapadia, Senior Counsel for the appellant, makes a statement before us that the

appellant until disposal of the notice of motion is not desirous of creating any third party rights or interest in the subject property and that until the disposal of the notice of motion the subject property shall be retained by the appellant with them only.

3. In our considered view the statement of Senior Counsel for the appellant fully protects the interest of the respondents (plaintiffs) and that it is not necessary to appoint the Court receiver in respect of the subject property until disposal of the notice of motion. Actually, Mr. A. Y. Bookwala, Senior Counsel for the respondents, agreed that the statement of Mr.Kapadia, upon acceptance, shall presently satisfy the respondents and there may not be any necessity for appointment of the Court Receiver. We, accordingly, dispose of the appeal by the following order:

(i) The statement of the Senior Counsel for the appellant that until disposal of the notice of motion, the appellant shall not create any third party rights or interest in the subject property and that the subject property shall be retained by the appellant with them only, is accepted.

(ii) In view of the aforesaid statement, the impugned order dated 16th November, 2006 is set aside.

4. The learned motion Judge is requested to hear and decide the notice of motion expeditiously.

Sd/-

(R. M. LODHA, J.)

Sd/-

(S. A. BOBDE, J.)